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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/583,070	10/18/2006	Juan Moya	19775	9172
272 7590 11/24/2008 SCULLY, SCOTT, MURPHY & PRESSER, P.C. 400 GARDEN CITY PLAZA SUITE 300 GARDEN CITY, NY 11530				
EXAMINER				
LOPEZ, FRANK D				
ART UNIT		PAPER NUMBER		
3745				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/583,070

Applicant(s)

MOYA, JUAN

Examiner

F. Daniel Lopez

Art Unit

3745

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF 298)
Paper No(s)/Mail Date 6/15/06
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____

Claim Rejections - 35 USC § 112

The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

Claims 1-6 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1 line 2, 4 and 10 "can be" should be --is--, for a positive limitation.

In claim 4 line 3 "the valve cartridge" has no antecedent basis.

Claim 6 is incomplete, since does not specify which claim it should depend from.

Claims not specifically mentioned are indefinite, since they depend from claim 1.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3 and 5 are rejected under 35 U.S.C. § 102(b) as being anticipated by either Nakamura (6183210, see discussion below), Hormann et al (5333997), Japan 2001 254681 or Japan 10 141241. Hormann et al (5333997) discloses a hydraulic circuit comprising first and second variable displacement pumps (1, 2) each connected to respective first and second working circuit (6.1, 6.2) and each having a volume separately adjusted by respective first and second adjusting devices (7.1, 7.2), acted on by an respective adjusting pressure, controlled by respective first and second total power control valve (18.1, 18.2); wherein each total power control valve has a valve piston with a ring surface (formed in 28.1, 28.2) directly acted on by a control pressure, against a spring (22.1, 30.1; 22.2, 30.2), such that the control pressure acting on the first total power control valve is the working pressure of the second pump; and wherein the valve piston is acted on by a force which is proportional to a power of the respective pump (via 17.1, 17.2 22b).

Japan 2001 254681 discloses a hydraulic circuit comprising first and second variable displacement pumps (201, 301) each connected to respective first and second working circuit (6.1, 6.2) and each having a volume separately adjusted by respective first and second adjusting devices (111, 121), acted on by an respective adjusting pressure, controlled by respective first and second total power control valve (115, 125); wherein each total power control valve has a valve piston with a ring surface (131a) directly acted on by a control pressure, against a spring, such that the control pressure acting on the first total power control valve is the working pressure of the second pump; and wherein the valve piston is acted on by a force which is proportional to a power of the respective pump (131b).

Japan 10 141241 discloses a hydraulic circuit comprising first and second variable displacement pumps (4, 6) each connected to respective first and second working circuit (10, 12) and each having a volume separately adjusted by respective first and second adjusting devices (62a, 62b), acted on by an respective adjusting pressure, controlled by respective first and second total power control valve (S1, S2); wherein each total power control valve has a valve piston with a ring surface (C1) directly acted on by a control pressure, against a spring (79a), such that the control pressure acting on the first total power control valve is the working pressure of the second pump; and wherein the valve piston is acted on by a force which is proportional to a power of the respective pump (via 7).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made. Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Claim 2 is rejected under 35 U.S.C. § 103 as being unpatentable over Nakamura (6183210) in view of Childress et al. Nakamura (6183210) discloses a hydraulic circuit comprising first and second variable displacement pumps (1, 2) each connected to respective first and second working circuit (PA1, PA2) and each having a volume separately adjusted by respective first and second adjusting devices (20A, 20B), acted on by an respective adjusting pressure, controlled by respective first and second total power control valve (22A, 22B); wherein each total power control valve has a valve piston with a ring surface (22a) directly acted on by a control pressure, against a spring (22d), such that the control pressure acting on the first total power control valve is the working pressure of the second pump; and wherein the valve piston is acted on by a force which is proportional to a power of the respective pump (by pressure in 22b); but does not disclose that the total power control valves are formed by valve cartridges.

Childress et al teaches, for a hydraulic circuit comprising a variable displacement pump (11) having a volume adjusted by an adjusting device (15), acted on by an adjusting pressure, controlled by a control valve (26); that the control valve is formed by a valve cartridge.

Since Nakamura (6183210) does not show details of the total power control valve, whereas Childress et al shows details of a similar type valve; it would have been obvious at the time the invention was made to one having ordinary skill in the art to form the total power control valves of Nakamura (6183210) as valve cartridges, as taught by Childress et al, since one having ordinary skill in the art would have been able to carry out such a formation and the resulting combination would predictable work in the same manner

Conclusion

Claim 4 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. § 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dan Lopez whose telephone number is 571-272-4821. The examiner can normally be reached on Monday-Thursday from 6:00 AM -4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ed Look, can be reached on 571-272-4820. The fax number for this group is 571-273-8300. Any inquiry of a general nature should be directed to the Help Desk, whose telephone number is 1-800-PTO-9199.

/F. Daniel Lopez/

F. Daniel Lopez
Primary Examiner
Art Unit 3745
November 21, 2008